

Property Information Package
10.530± Wooded Acres
Townley Ranch Road, Dodge, Walker County, Texas



Townley Ranch Road at Roy Webb Road







Executive Summary

Tract 34.3 A-18 Walker County
Townley Ranch Road 10.523 Acres
Dodge, Texas

The information contained herein is intended to provide interested parties with preliminary information only. This is not a solicitation of an offer to buy and does not constitute an offer to sell. The information is provided for the purpose to inviting further inquiry and has been obtained from sources the FDIC believes to be reliable. All properties are sold in an “As Is” condition. The FDIC makes no guarantee, warranty, or representation, expressed or implied as to the location, quality, kind character, size, description, or fitness for any use or purpose, now or hereafter.

Legal Description:

“Being Tract 34.3, containing 10.530 acres, more or less, being situated in the LEWIS DUEL LEAGUE, Abstract No. 18 of Walker County, Texas and being a part of a 815.83 acre tract conveyed by Maria McRae to First Texas Equity by a deed recorded in Volume 425, page 900, Deed Records of Walker County, Texas, said 10.530 acres being more fully described”...in the title commitment.

Location:

The property is located approximately 14 miles from the I-45, State Hwy 190 exit in an un-platted subdivision outside Huntsville, Texas. Exit I-45 at State Hwy 190 bear left on to FM 405 and take a left on Roy Webb Road to Townley Ranch Road on the right.

Zoning:

The property is in an unincorporated rural area. There are no zoning restrictions and Townley Ranch Road is a private road maintained by the individual property owners.

Property Description:

The property is 10.530 acres of undeveloped timber land. The property is currently assessed as land non-homesite value, which is designated as AG/Timber value.

Tax Information:

The property's Tax ID # 11890 in the Walker CAD shows a liability of unpaid taxes of \$5,759.76 as of May 10, 2006.

<http://client.trueautomation.com/clientdb/propertydetails.asp?prop=11890>

Terms of Sale:

This property is being offered for sale "where is, as is". The Property will be conveyed with a Quick Claim Deed and subject to any and all outstanding taxes and liens. Earnest Money in the amount of the Full Purchase price must accompany a signed contract. Full details of the transaction are contained in the real estate purchase and sale contract attached to this document.

FDIC Contact Information

For specific property questions, please contact Philip Thomas at

FDIC General Public No. 800-568-9161 Ext. 8385

Direct Line No. 972-761-8385

FAX No. 972-761-2399

Email pthomas@fdic.gov

REAL ESTATE PURCHASE AND SALE CONTRACT

{Instructions throughout the contract are in italics in “{}” brackets.}

- 1) PARTIES: This Real Estate Purchase And Sale Contract (the “**Contract**”) is entered into by and between the **Federal Deposit Insurance Corporation**, in the following capacity(ies):

- ☐ Receiver of
- ☐ in its Corporate capacity.
- ☒ Manager of the FSLIC Resolution Fund.
- ☐ Manager of the FSLIC Resolution Fund as Receiver of
- ☐ Other

hereafter referred to as ‘**Seller**,’

and

_____ { *check*
one } ☐ an individual, or ☐ a state of {name of
state} _____ {circle one} corporation/partnership/limited
liability company/trust (“**Purchaser**”).

- 2) PROPERTY: That certain tract or parcel of land described on ATTACHMENT A affixed hereto and incorporated herein which parcel of land is to be sold together with all buildings and other improvements situated thereon, all fixtures and other property affixed thereto and all and singular the rights and appurtenances pertaining to the property, including any right, title and interest of Seller in and to adjacent streets, alleys or rights-of-way (the “**Property**”).
- 3) PURCHASE PRICE: Subject to the terms, provisions, covenants and conditions herein contained, Seller hereby agrees to sell and convey and Purchasers hereby agrees to purchase the Property for the purchase price of _____ and no/100 dollars (\$ _____) (the “**Purchase Price**”).
- 4) EARNEST MONEY: An earnest money deposit (the “**Earnest Money**”) in the amount of \$ _____, equal to THE FULL PURCHASE PRICE, is herewith tendered by Purchaser and is to be held by Seller. The Earnest Money will be in the form of cash, a cashier’s check, or certified funds payable to Seller. The Earnest Money will NOT bear interest at anytime. If the sale hereunder is consummated in accordance with the terms hereof, the Earnest Money will be applied against the Purchase Price at closing, i.e., the Earnest Money will become the Purchase Price at Closing and will belong to Seller. In the event of default hereunder by Purchaser, the Earnest Money will be applied as provided in Section 16.
- 5) SURVEY: Seller has no obligation to provide Purchaser with a survey of the Property. The Purchaser may, at his own expense, purchase a survey of the Property.
- 6) TITLE COMMITMENT AND TITLE POLICY: Seller has no obligation to provide Purchaser with a title report, a title commitment (“**Title Commitment**”), or an Owner’s title insurance policy (“**Title Policy**”). The Purchaser may elect at his own expense to purchase a Title Commitment and/or Title Policy.

Purchaser has no right to raise any objection, nor does Seller have any obligation to eliminate or modify any easement, lien, imposition, encumbrance, restriction, condition, or covenant with respect to the Property, whether of record or not, or whether evidenced by a title report, Title Commitment, survey, or otherwise. Purchaser agrees that (i) all such matters are permitted encumbrances, and (ii) conveyance of the Property will be subject thereto.

- 7) INSPECTION PERIOD: There is NO inspection period granted under this Contract.
- 8) CONVEYANCE OF TITLE: Seller will convey the Property by a Deed Without Warranty, or if inapplicable in the state wherein the Property is located, a Quitclaim Deed (in either even, the “**Deed**”), subject to all easements, rights of way, exception, covenants, restrictions, reservations, encroachment, encumbrances, access limitations, and any and all other matter or conditions affecting the Property, whether known or unknown, recorded or unrecorded. Any personality that may be owned by the Seller that is situated on the Property at Closing will be conveyed to Purchaser by Quitclaim Bill of Sale.
- 9) PROPERTY CONDITION: **PURCHASER, BY ITS EXECUTION HEREOF, ACKNOWLEDGES THAT:**
 - i) **SELLER HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY NEGATES AND DISCLAIMS, ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS, OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER WHETHER EXPRESSED OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT, OR FUTURE AS TO (a) THE VALUE, NATURE, QUALITY, OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL AND GEOLOGY, (b) THE INCOME TO BE DERIVED FROM THE PROPERTY, (c) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH PURCHASER MAY CONDUCT THEREON, (d) THE PROPERTY’S COMPLIANCE WITH ANY LAWS, RULES, ORDINANCES, OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY, (e) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY, (f) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS IF ANY, INCORPORATED INTO THE PROPERTY, (g) THE MANNER, QUALITY, STATE OF REPAIR, OR LACK OF REPAIR OF THE PROPERTY, OR (h) ANY OTHER MATTER WITH RESPECT TO THE PROPERTY OTHER THAN THE WARRANTIES OF TITLE IN THE SPECIAL WARRANTY DEED, IF SUCH SPECIAL WARRANTY DEED IS ISSUED. SELLER HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS REGARDING COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION, OR LAND USE LAWS, RULES, REGULATIONS, ORDERS, OR REQUIREMENTS, INCLUDING THE DISPOSAL OR EXISTANCE, IN OR ON THE PROPERTY, OF ANY HAZARDOUS MATERIALS.**
 - ii) **PURCHASER HAS FULLY INSPECTED THE PROPERTY AND THAT THE CONVEYANCE AND DELIVERY OF THE PROPERTY IS “AS IS” AND “WITH ALL FAULTS.”**
 - iii) **NO WARRANTY HAS ARISEN THROUGH TRADE, CUSTOM OR COURSE OF DEALING WITH THE PURCHASER. PURCHASER REPRESENTS THAT, PURSUANT TO THE INSPECTION PERIOD (IF ANY), PURCHASER HAS MADE (OR HEREBY WAIVES): (a) ALL INSPECTIONS OF THE PROPERTY DEEMED NECESSARY OR APPROPRIATE BY PURCHASER TO**

DETERMINE THE PROPERTY'S VALUE AND CONDITION, INCLUDING, WITHOUT LIMITATION, INSPECTIONS FOR THE PRESENCE OF ASBESTOS, PESTICIDE RESIDUES, UNDERGROUND STORAGE TANKS, HAZARDOUS WASTE, AND ANY OTHER HAZARDOUS MATERIALS, AND (b) ALL INVESTIGATIONS TO DETERMINE WHETHER ANY PORTION OF THE PROPERTY LIES WITHIN ANY FLOOD HAZARD AREA AS DETERMINED BY THE U.S. ARMY CORPS OF ENGINEERS OR OTHER APPLICABLE AUTHORITY. PURCHASER'S INSPECTION OF THE PROPERTY (OR WAIVER THEREOF) WILL RELIEVE SELLER OF ANY LIABILITY TO PURCHASER AS A RESULT OF ANY ENVIRONMENTAL HAZARD ON OR TO THE PROPERTY AND PURCHASER ACCEPTS ALL LIABILITY THEREFOR, AS BETWEEN PURCHASER AND SELLER, AND INDEMNIFIES AND HOLDS SELLER HARMLESS FROM AND AGAINST ANY CLAIMS, LIABILITIES, DEMANDS, OR ACTIONS INCIDENT TO, RESULTING FROM, OR IN ANY WAY ARISING OUT OF SUCH HAZARD. THIS INDEMNITY SURVIVES CLOSING AND WILL NOT BE MERGED WITH THE SELLER'S DEED.

- 10) **BROKER'S FEE:** By separate document, Seller has agreed to pay a real estate commission (the "**Commission**") to the real estate agent specified therein (the "**Broker**"), subject to the closing of this sale and payment of the full purchase price to Seller. Broker may agree to pay a portion of the Commission to any other licensed real estate agent by Seller will bear no liability for payment to any agent other than Broker. Purchaser represents to Seller that no real estate broker has been authorized to act on Purchaser's behalf, and Purchaser hereby indemnifies Seller from any claims which have been or may be asserted against Seller as to brokerage or similar fees with respect to the Property.
- 11) **CLOSING:** The closing and funding of this sale (the "**Closing**") will be ten (10) days from the Effective Date, (the "**Closing Date**"). Should the Closing Date fall on a Saturday, Sunday, or legal holiday, Closing will occur on the first business day thereafter. The Closing will take place at the office of the Title Company or, at Seller's option, at the office of Seller. If either party fails to close the sale under the terms of this Contract, the non-defaulting part will be entitled to exercise the remedies provided in Section 16. Any extension of the Closing Date must be in writing and executed by Purchaser and Seller in advance of the scheduled Closing Date, except in the case of Seller's unilateral extension of the Closing Date as described in Section 6.
- 12) **POSSESSION:** Possession of the Property in its condition existing at the date of execution hereof, ordinary wear and tear excepted, will be delivered to Purchaser at Closing, subject to the rights or claims of parties in possession or vendors thereto. Delivery of the Deed by Seller and acceptance of the Deed by Purchaser will evidence the assignment by Seller and assumption by Purchaser of all written or oral agreements for lease of the Property and contracts in effect as of the Closing Date. From and after Closing, Purchaser will defend, indemnify, and hold Seller harmless from and against all claims, demands, and actions arising under such leases or contracts.
- 13) **CLOSING COST:** All expenses and cost incurred in connection with the Purchaser's purchase of the Property, except the broker's fee described in Section 10, if any, and the preparation of the deed, will be paid by the Purchaser. Such expenses and cost to be paid by the Purchaser include, but are not limited to, documentary stamp, ad valorem and transfer taxes, and recording fees.
- 14) **PRORATIONS:** At Closing, all utilities, rents, amounts owing under service contracts and leases, and all deposits and other items of income or expense, will be prorated between Purchaser and Seller as of the Closing Date. All such prorations are final and not adjustable. Notwithstanding the above, the Purchaser will be responsible for all unpaid ad vorem taxes and assessments affecting the Property, whether known or unknown, current or delinquent, including any additional ad valorem taxes, interest, penalties, court cost, title cost, and attorney fees that may become due because of (i) the transfer of the Property, (ii) a subsequent change in the use of the property, and (iii) the omission of assessments on improvements. There will be no proration for any of the above.

- 15) **CASUALTY LOSS:** In the event of damage or destruction of the Property by fire or other casualty prior to the Closing Date, which results in a loss exceeding twenty percent (20%) of the Purchase Price. Purchaser, within five

(5) days of notice from Seller of the occurrence of such event, may either (i) receive the insurance proceeds payable as a result of the event and consummate the transaction in accordance herewith, or (ii) terminate this Contract. In the event of termination of this Contract the Earnest Money will be returned to Purchaser. Thereafter neither party hereto will have any further rights or obligations under this Contract.

- 16) **DEFAULT:** If Purchaser fails to perform any of his obligations hereunder, Seller's exclusive remedy for such default is (a) termination of this Contract by written notice to the Purchaser, and (b) retention of the Earnest Money as liquidated damages. If Seller fails to perform any of its obligations hereunder, Purchaser's exclusive remedy for such default is (a) termination of this Contract and liquidated damages as follows: (i) refund of the Earnest Money, and (ii) reimbursement by the Seller of Purchaser's documented out-of-pocket expenses, not to exceed \$500.00. The liquidated damages specified in this Section are not penalties, rather they are reasonable estimates of the cost to the Seller of holding the Property off the market, and the cost to the Purchaser of the lost transaction.
- 17) **PROHIBITED PURCHASER:** Purchaser acknowledges that certain persons are prohibited from purchasing assets from Seller. Purchaser also acknowledges that under certain circumstances, Seller will not sell assets to certain persons. Accordingly, prior to the execution hereof, Purchaser has completed and executed the Purchaser Eligibility Certification (the "**PEC**") attached here to as ATTACHMENT B. Purchaser represents and warrants that the completed PEC is true and correct, and acknowledges that Seller is relying on the truth and accuracy of the completed PEC.

Any incorrect information on the PEC will constitute a breach of this Contract by the Purchaser. Should the Seller determine prior to Closing that any portion of the Purchaser's completed PEC is incorrect, Seller may terminate the Contract and retain the Earnest Money per Section 16 of this Contract and may pursue other sanctions provided by law.

- 18) **CONFIDENTIALITY:** Prior to the execution hereof, Purchaser has completed and executed the Confidentiality Agreement attached hereto as ATTACHMENT C. Any breach of the Confidentiality Agreement by Purchaser will be a default hereunder, as provided in Section 16.
- 19) **ATTORNEYS' FEES:** In any legal proceeding brought under or with relation to this Contract, the prevailing party will be entitled to recover court cost and reasonable attorneys' fees from the non-prevailing party.
- 20) **AUTHORITY TO EXECUTE:** Only an FDIC employee who is an Attorney-in-Fact for the FDIC acting in the capacity stated in Section 1 is authorized by the FDIC to execute this Contract.
- 21) **SURVIVAL:** Sections 9, 10, 14, 23 and 27 of this Contract will survive the Closing and the delivery of the Deed and other conveyance documents from Seller to Purchaser. All of the terms and conditions of Sections 9, 10, 14, 23 and 27 will be and remain in full force and effect between the parties hereto.
- 22) **MODIFICATIONS:** This Contract supersedes any and all prior discussions, communications, and agreements between the Seller and the Purchaser, if any, with respect to the purchase of the Property and other matters contained herein. This Contract contains the sole and entire understanding between the parties hereto with respect to the transaction contemplated herein. This Contract will not be modified or amended except in writing executed by the Purchaser and Seller.
- 23) **APPLICABLE LAW:** This Contract will be governed by and construed and enforced in accordance with the laws of the United States of America, and to the extent that state law would apply under applicable federal law, the state in which the Property is located.
- 24) **TIME:** Time is of the essence of this Contract.

- 25) NOTICES: All notices, request, demands, or other communications required or desired to be given hereunder will be in writing and either delivered by (a) hand, (b) telecopier, (c) overnight delivery service, or (d) certified mail, return receipt requested, postage prepaid, to the addresses in the signature section below, and will be deemed given two (2) days after the date mailed, if mailed, one (1) day after the date sent, if sent by overnight delivery service, and on the day delivered if delivered personally to the address set forth or by telecopier to the facsimile (fax) number also set forth below.
- 26) EFFECTIVE DATE: The effective date of this Contract (the “**Effective Date**”) will be the date upon which the last party to sign executes this Contract.
- 27) CONSTRUCTION: Unless stated otherwise, the words “day” or “days” refer to calendar days. Pronouns are used interchangeably herein to refer to masculine, feminine, or neuter antecedents. Purchaser waives the presumption that ambiguities, if any, will be construed against the drafting party. This Contract will be construed liberally and not in favor of the non-drafting party.
- 28) ATTORNEY CONSULTATION: The parties acknowledge and agree that this is intended to be a legally binding Contract. The parties further acknowledge that federal law may impose certain duties upon brokers or signatories to this Contract when any of the signatories is a foreign party, or when any of the signatories receives certain amounts of U.S. currency in connection with a real estate closing. To the extent, if any, that either party fails to understand the effect of any part of this Contract, that party hereby agrees to consult an attorney prior to signing.
- 29) STATE SPECIFIC ATTACHMENTS: The following attachments are affixed and incorporated herewith to conform this Contract to the laws of the state in which the Property is located:

{If none of the attachments listed below are used, write “None” on the first line.}

[]	ATTACHMENT	NO.
D: <u>None</u>		
[]	ATTACHMENT	NO.
E		
[]	ATTACHMENT	NO.
F		
[]]ATTACHMENT	NO.
G		
[]]ATTACHMENT	NO.
H		

- 30) INDIVIDUAL LIABILITY: The individual signing this Contract purportedly on behalf of a corporation, partnership, limited liability company, or trust will be bound under this Contract in his or her individual capacity unless, prior to Closing, the individual complies with requirements that the Seller deems necessary or appropriate to insure conveyance of title to the named party.
- 31) DISCLOSURES: As required by applicable law, the following disclosures are attached to this Contract, and the terms thereof are incorporated herein:
- [] ATTACHMENT NO. I Lead-Based Paint Disclosure. If the Property includes any interest in real property on which a residential dwelling was built prior to 1978.
- [] ATTACHMENT NO. J Other Environmental Matters. Other environmental matters require disclosure in connection with the conveyance of the Property to the Purchaser.

IN WITNESS WHEREOF, The parties have affixed there signatures hereto on the dates set forth beneath their signatures.

PURCHASER:

{Individual Purchaser signs here. Entity Purchaser prints or types entity's name here}

By:

{Entity's representative signs here}

Name of Entity Purchaser's representative printed or typed:

Individual Purchaser's Name Printed or Typed:

Address:

{Use street address only. A Post Office Box address is NOT acceptable}
Phone _____ Number:

Fax _____ Number:

Tax ID _____ Number:

Date: _____

SELLER:

Federal Deposit Insurance Corporation, in the capacity stated above.

1910 Pacific Avenue, Twelfth Floor

Dallas, Texas 75201

By: _____ Philip _____ W.
Thomas _____

Name: _____ Philip
Thomas _____

Its: Attorney in Fact

Phone: _____ 972-761-
8385 _____

Fax: _____ 972-761-
2399 _____

Date: _____

Attachment A

Property Description:

Being Tract 34.3, containing 10.530 acres, more or less, being situated in the LEWIS DUEL LEAGUE, Abstract No. 18 of Walker County, Texas and being a part of a 815.83 acre tract conveyed by Maria McRae to First Texas Equity by a deed recorded in Volume 425, page 900, Deed Records of Walker County, Texas, said 10.530 acres being more fully described as follows:

BEGINNING at a concrete monument marking the southeast corner of that tract of land herein described, being a southwest corner of the Champion International 860 acre tract and being the northeast corner of the Jeff Niersel 13.997 acre tract as described in Volume 431, Page 676 of the Official Public Records of Walker County.

THENCE North 0 degrees 01 minutes 52 seconds West with the east line of the tract of land herein described and a west line of said Champion International 860 acre tract, a distance of 384.18 feet to a found concrete monument for the northeast corner of that tract of land herein described, being a corner in the line of said Champion 860 acre tract;

THENCE South 56 degrees 01 minutes 34 seconds West with the north line of that tract of land herein described and a south line of Tract 29, a 42.500 acre tract, a distance of 925.92 feet to an iron stake for corner;

THENCE with said road South 34 degrees 26 minutes 16 seconds East, a distance of 881.12 feet to a point, from said point a steel rod for reference corner bears North 17 degrees 23 minutes 30 seconds East a distance of 38.16 feet, said point marking the southwest corner of that tract of land herein described and the northwest corner of said Niersel tract;

THENCE North 17 degrees 23 minutes 30 seconds East with the south line of that tract of land herein described and north line of said Niersel tract, a distance of 901.19 feet to the PLACE OF BEGINNING containing 10.530 acres.

There is, however, reserved and excepted from the above described tract of land a 30 foot right of way easement adjacent and parallel to the southwest line of the above described tract.

Attachment B

PURCHASER ELIGIBILITY CERTIFICATION

The purpose of the Purchaser Eligibility Certification is to identify Prospective Purchasers who are not eligible to purchase assets of failed financial institutions from the Federal Deposit Insurance Corporation under the laws, regulations and policies governing such sales. Completion of the Purchaser Eligibility Certification, **without modification**, is a prerequisite to any such purchase.

DEFINITIONS

Affiliated Business Entity. An Affiliated Business Entity of a Prospective Purchaser means its spouse, dependent child or any member of its household; or any entity that directly or indirectly is under the control of the Prospective Purchaser, controls the Prospective Purchaser or is under common control with the Prospective Purchaser.

Associated Person. An Associated Person of a Prospective Purchaser who is an individual is (1) the Prospective Purchaser's spouse or dependent child or any member of the household, (2) a partnership in which the Prospective Purchaser is or was a general or limited partner, or (3) a corporation of which the Prospective Purchaser is or was an officer or director. An Associated Person of a Prospective Purchaser that is an entity is (1) any individual or entity that, acting individually or in concert with one or more individuals or entities, owns or controls 25 percent or more of the Prospective Purchaser; or (2) a managing or general partner of the Prospective Purchaser.

Contractor. A Contractor is any individual or entity that has submitted an offer to the FDIC to perform services or has a contractual arrangement with the FDIC to perform services.

Delinquent Obligation. A Delinquent Obligation is any debt or duty to pay money to the FDIC in excess of \$50,000 (in the aggregate for all such debts or duties) that is more than 60 days delinquent, or any other failure to comply with the terms and conditions of a written agreement with the FDIC that continues for more than sixty (60) days following notice. A Delinquent Obligation does not include any debt that has been settled, nor any debt that has been sold or transferred by the FDIC, nor any debt for which the FDIC has reported forgiveness of debt through the issuance of an IRS form 1099, nor any debt discharged in bankruptcy.

Failed Institution. A Failed Institution is any bank or savings association that has been under the conservatorship or receivership of the FDIC or of the Resolution Trust Corporation. It includes any entity owned and controlled by such a bank or savings association.

FDIC. FDIC means the Federal Deposit Insurance Corporation, whether acting in its corporate capacity or as conservator or receiver of a Failed Institution.

Prospective Purchaser. A Prospective Purchaser is any individual or entity that intends to make an offer to purchase assets of a Failed Institution from the FDIC. For all purposes of this Certification, an “entity” includes any entity with a legally independent existence, including, without limitation, a trustee; the beneficiary of at least a 25% share of the proceeds of a trust; a partnership; a corporation; an association; or any other organization or society.

Substantial Loss. A Substantial Loss is (i) any debt or duty to pay money to the FDIC or a Failed Institution that has an outstanding balance of more than \$50,000 and that is more than 90 days past due; (ii) an unpaid final judgment of more than \$50,000 regardless of whether it is forgiven in a bankruptcy proceeding; (iii) a deficiency balance following a foreclosure sale of more than \$50,000 regardless of whether it is forgiven in a bankruptcy proceeding; or (iv) any loss of more than \$50,000 reported on an IRS Form 1099-C (Information Reporting for Discharge of Indebtedness).

ELIGIBILITY CERTIFICATION

The undersigned hereby certifies that all of the following statements are true, correct and complete when made and will be true at closing of the sale.

- A. FDIC Employees.** Neither the Prospective Purchaser nor any member of the Prospective Purchaser’s immediate family (spouse, dependent child, or member of the household) is an employee of the FDIC.
- B. Delinquent Obligors.** Neither the Prospective Purchaser nor any of its Affiliated Business Entities has a Delinquent Obligation. *Under certain circumstances, the certification required in this paragraph may be waived. For more information about the waiver process and criteria, contact the FDIC sales representative. Note: If the sale is for FDIC real estate owned or items such as furniture, fixtures or equipment, artwork, automobiles or other tangible items, and the bid price will be less than \$250,000 (per item or per pool), then the certification set forth in this paragraph B is not required.*
- C. FDIC Contractors.** Neither the Prospective Purchaser nor any of its Affiliated Business Entities is a Contractor that has performed services relating to any of the assets that the Prospective Purchaser might buy. *Under certain circumstances, the certification required in this paragraph may be waived. For more information about the waiver process and criteria contact the FDIC sales representative.*
- D. Officers or Directors of Failed Institutions.** Neither the Prospective Purchaser nor its Associated Person has ever been an officer or director of a Failed Institution who (1) has participated in a material way in one or more transactions that caused a Substantial Loss to any such Failed Institution; *and* (2) in connection with such Substantial Loss has been found by a court or administrative tribunal, or alleged in a judicial or administrative action brought by the FDIC or any federal or state governmental entity to have (i) violated any law, regulation or order issued by a federal or state banking agency; (ii) breached a written agreement with a federal or state banking agency or with a Failed Institution; (iii)

engaged in an unsafe or unsound practice in conducting the affairs of a Failed Institution; or (iv) breached a fiduciary duty owed to a Failed Institution.

- E. Debarment from Participation in the Affairs of a Failed Institution.** Neither the Prospective Purchaser nor any of its Associated Person(s) has been removed from, or prohibited from participating in the affairs of a Failed Institution by a final enforcement action by the FDIC or any other federal banking agency (Office of the Comptroller of the Currency, Office of Thrift Supervision, or the Board of Governors of the Federal Reserve System).
- F. Pattern or Practice of Defalcation.** Neither the Prospective Purchaser nor any of its Associated Person(s) has borrowed money or guaranteed loans in more than one transaction with the intent to cause a loss or with reckless disregard for whether such transactions would cause a loss to any financial institution insured by the FDIC, where these loans, in the aggregate, caused a Substantial Loss to one or more Failed Institutions.
- G. Convicted of Certain Crimes.** Neither the Prospective Purchaser nor any of its Associated Person(s) (1) has been convicted of committing or conspiring to commit any offense under Section 215, 656, 657, 1005, 1006, 1007, 1014, 1032, 1341, 1343 or 1344 of Title 18 of the United States Code affecting any Failed Institution; *and* (2) has defaulted on any debt or duty to pay money (including any guaranty) owed to the FDIC or any Failed Institution to such an extent that a judgment has been rendered in favor of the FDIC or the property securing the debt has been foreclosed on.
- H. If Seller Financing Is Used.** Neither the Prospective Purchaser nor any of its Associated Persons (1) has defaulted on any debts or duties to pay money (including any guaranty) to the FDIC or a Failed Institution that, in the aggregate, exceed \$1,000,000, to such an extent that a judgment has been rendered in favor of the FDIC or the property securing the debt has been foreclosed on; *and* (2) has made any fraudulent misrepresentations in connection with any of these debts or duties. *This representation is not required, and has no effect, if the Prospective Purchaser does not finance any portion of the purchase price through financing offered by the FDIC.*
- I. Transactions Structured to Circumvent this Certification.** Neither the identity nor form of the Prospective Purchaser, nor any aspect of the contemplated transaction, has been created or altered with the intent, in whole or in part, to allow an individual or entity who otherwise would be ineligible to purchase assets from the FDIC to benefit directly or indirectly from the proposed transaction.

PROSPECTIVE PURCHASER INFORMATION

Name of Prospective Purchaser			<input type="checkbox"/> Individual <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Trust
Physical Street Address (For Overnight Delivery)			Tax Identification Number or SSN
City	State	Zip	E-Mail Address
Contact Person and Title			
Telephone Number of Contact Person ()		Fax Number of Contact Person ()	

IN WITNESS WHEREOF, the undersigned has executed this Certification as of this _____ day of _____, 2003.

PROSPECTIVE PURCHASER

[Print Name of Prospective Purchaser]

By: _____
[Signature]

[Print Name and Title of Authorized Signatory]

Notice Concerning Legal Action

Any person who knowingly or willfully makes false or fraudulent statements or disclosures in connection with this Certification will be referred to the Office of Inspector General and/or the appropriate law enforcement officials for investigation and legal enforcement and may be subject to fines and/or imprisonment (18 U.S.C. §§ 1001, 1007 and 1014).

PRIVACY ACT STATEMENT

Collection of this information is authorized by the Federal Deposit Insurance Act (12 U.S.C. §§1819, 1821, and 1823) and Executive Order 9397. The requested information will be used by the FDIC as a prerequisite to selling assets to Prospective Purchasers to determine if a Prospective Purchaser is ineligible to purchase assets under the laws, regulations and policies of the FDIC. (12 C.F.R. § 340.7; *see also* 5 C.F.R. Part 366; 5 C.F.R. Part 3201).

Disclosure of information on this form may be made to other federal, state or local agencies if a violation of a civil or criminal law is apparent; to individuals involved in the conduct of judicial or administrative proceedings; and to a Congressional office in response to an inquiry made at the request of the individual or in accordance with other “routine uses of records.”

ESTIMATED REPORTING BURDEN

Public reporting burden for this collection is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Assistant Executive Secretary (Regulatory Analysis), Office of the Executive Secretary, Room F-4001, FDIC, Washington, D.C. 20429; and to the Office of Management and Budget, Paperwork Reduction Project (3064-0089), Washington, D.C. 20503. Respondents need not respond to this request for information unless it displays a currently valid OMB Control Number.

Attachment C

CONFIDENTIALITY AGREEMENT

Instructions

This Confidentiality Agreement ("Agreement") is designed in two parts. When executing this Agreement, you will be agreeing to either Confidentiality Agreement Part A ("Part A") or to Confidentiality Agreement Part B ("Part B"), as appropriate.

Part A applies to an individual acting in his or her own behalf or to an individual or entity acting through an authorized representative (in either capacity, "Potential Purchaser") that is considering the submission of a bid to purchase the following real estate (the "Property") in offered by the FDIC:

Part B, which begins on page 5 of this Agreement, applies to an individual ("Assisting Party") (a) who is an employee, officer or director of either (i) Potential Purchaser (including those of its affiliates), (ii) Potential Purchaser's agents or representatives (including its attorneys, accountants or financial advisors) or (iii) a third party (such as an equity investor, servicer or contractor), and (b) who has a need to access the Evaluation Material for the purpose of assisting and advising Potential Purchaser in evaluating the Property or entering a bid.

Part A: Potential Purchasers

By executing this Agreement, Potential Purchaser hereby enters into and agrees to be bound by all terms and conditions of this Part A as of the Effective Date (defined below) in favor of and for the benefit of the Federal Deposit Insurance Corporation, in its Corporate and/or Receivership capacity ("FDIC" or "Seller").

WHEREAS, Potential Purchaser has expressed interest in having the FDIC provide Potential Purchaser with certain documents and/or other information relating to the Property for inspection and review;

WHEREAS, in consideration of the FDIC's (or its agents and representatives) furnishing Potential Purchaser with such information regarding the Property, Potential Purchaser desires to make certain agreements regarding such information and any other information the FDIC, its agents and representatives furnish to Potential Purchaser regarding the Property (including all notes, analyses, compilations, studies or other documents, whether prepared by Potential Purchaser or others, which contain or otherwise reflect such information) (such information, and such documents, are collectively herein referred to as the "Evaluation Material"); and

WHEREAS, Potential Purchaser's execution of this Part A, **without modification**, is a prerequisite to receipt of such Evaluation Material; and

WHEREAS, this Part A incorporates all Instructions to this Agreement, including the definitions contained therein.

NOW, THEREFORE, in order to induce the FDIC to furnish the Evaluation Material to Potential Purchaser for its inspection and review, and for other good and valuable consideration, the

receipt and sufficiency of which are hereby acknowledged, Potential Purchaser hereby acknowledges and agrees as follows:

Section 1. Term. This Part A shall be a continuing agreement, effective upon execution by Potential Purchaser ("Effective Date") for any Offering that the FDIC makes available to Potential Purchaser thereafter. This Part A shall terminate only with respect to Property purchased by Potential Purchaser from Seller pursuant to an Offering, and only upon closing on the purchase of such Property.

Section 2. Limitation on Use. Potential Purchaser shall use the Evaluation Material solely for the purpose of evaluating the Property.

Section 3. Limited Access. Without the prior, written consent of the FDIC, to be granted or withheld in its sole discretion, Potential Purchaser shall not disseminate or divulge the Evaluation Material to any individual or entity, other than to: (a) its employees, officers and directors (including those of its affiliates), (b) its agents and representatives (including its attorneys, accountants and financial advisors) and (c) any third parties (such as equity investors, servicers and contractors), in each case who (i) have a need for access to the Evaluation Material for the purpose of assisting and advising Potential Purchaser in the evaluation of the Property or in the making of a bid therefor, and (ii) have entered into an agreement with Potential Purchaser substantially in the form of Part B of this Agreement, a copy of which executed agreement will be provided upon request to the FDIC, or that are otherwise legally obligated under the terms of their engagement or relationship with Potential Purchaser to maintain the confidentiality of the Evaluation Material.

Section 4. Confidentiality; Destruction of Documents. Potential Purchaser agrees that Potential Purchaser shall ensure that all individuals or entities to whom it discloses the Evaluation Material shall keep the Evaluation Material confidential. With respect to any Property not purchased by Potential Purchaser pursuant to the Offering, Potential Purchaser shall destroy, and shall ensure that all individuals or entities to whom it has disclosed the Evaluation Material shall destroy all copies of the Evaluation Material, unless otherwise directed by the FDIC, unless doing so would violate: (a) record-keeping requirements mandated by applicable law or regulation, or (b) internal Potential Purchaser record maintenance policies and controls. Any Evaluation Material not destroyed because of subsections (a) or (b) of this Section 5 shall remain confidential and subject to this Part A. Potential Purchaser will inform the FDIC immediately of any improper disclosure of any of the Evaluation Material, and of any breach of any provision of this Part A, which may come to Potential Purchaser's attention.

Section 5. Other Disclosure. To the extent that Potential Purchaser is required to disclose the Evaluation Material pursuant to the requirements of any legal proceeding, Potential Purchaser shall notify the FDIC within one Business Day of its knowledge of such legally required disclosure so that the FDIC may seek an appropriate protective order and/or waive Potential Purchaser's compliance with this Part A. Notice shall be both by telephone and in writing. In the absence of a protective order or waiver, Potential Purchaser may disclose the relevant Evaluation Material if, in the written opinion of its counsel, failure to disclose such Evaluation Material would subject Potential Purchaser to liability for contempt, censure or other legal penalty or liability.

Section 6. Liability. If the FDIC determines that Potential Purchaser has breached any provision of Part A, or that Potential Purchaser's Assisting Party has breached any provision of Part B, then the FDIC may, in its sole discretion, exercise any or all legal or equitable rights or remedies against Potential Purchaser to which the FDIC is entitled on account of such breach. The FDIC shall not be deemed to have waived any of its rights or remedies on account of its failure, delay or forbearance in exercising any such right or remedy in a particular instance.

Section 7. Indemnification. Potential Purchaser shall defend, indemnify and hold harmless the FDIC from and against any and all claims, demands, causes of action, losses, damages, liabilities, judgments, costs and expenses (including attorneys' fees) asserted against or incurred by the FDIC as a result of (a) any violation of, or failure to comply with, the provisions of this Part A by Potential Purchaser or any individual or entity to whom it has disclosed the Evaluation Material; or (b) any violation of, or failure to comply with, the provisions of Part B by Potential Purchaser's Assisting Party or any individual or entity to whom the Assisting Party has disclosed the Evaluation Material.

Section 8. Release of the FDIC. Potential Purchaser acknowledges and understands that some or all of the Evaluation Material may have been prepared by parties other than the FDIC, and further acknowledges and understands that the FDIC makes no representation or warranty whatsoever, express or implied, with respect to the content, completeness or accuracy of the Evaluation Material except as otherwise provided in the LSA. Potential Purchaser hereby releases the FDIC from all claims, demands, causes of action, losses, damages, liabilities, cost or expenses (including attorneys' fees) asserted against or incurred by Potential Purchaser by reason of Potential Purchaser's reliance on or knowledge of the Evaluation Material or for any other reason arising in connection with the Offering.

Section 9. Public Information. Notwithstanding anything to the contrary set forth above, nothing in this Part A shall prevent Potential Purchaser from using or disseminating information that is or becomes generally available to the public other than as a result of a disclosure by Potential Purchaser, Potential Purchaser's Assisting Party, or any individual or entity to whom Potential Purchaser or Potential Purchaser's Assisting Party has disclosed such information.

Section 10. Verification of Statements. By entering into and agreeing to the terms of this Part A, Potential Purchaser hereby acknowledges that the FDIC may perform a credit check or other investigation to verify the accuracy of any statement made by Potential Purchaser herein.

Section 11. Governing Law. Federal law shall control this Part A. To the extent that federal law does not supply a rule of decision, this Part A shall be governed by and construed and enforced in accordance with, the laws of the State of New York. Nothing in this Part A requires any unlawful action or inaction by either party.

Section 12. Miscellaneous. This Part A represents the entire agreement between Potential Purchaser and the FDIC relating to the receipt, use and disclosure of the Evaluation Material and supersedes any and all prior understandings and agreements with respect thereto. This Part A shall apply to and be binding upon Potential Purchaser and its directors, officers, employees, agents, successors and assigns. The representative(s) signing this Part A on behalf of Potential Purchaser represents that he or she is fully authorized to enter into the terms and conditions of this Part A and to legally bind Potential Purchaser.

Part B: Assisting Parties

By executing this Agreement, I, an Assisting Party, hereby enter into and agree to be bound by all terms and conditions of Part B as of the Effective Date (defined below) in favor of and for the benefit of the Federal Deposit Insurance Corporation, in its Corporate and/or Receivership capacity ("FDIC" or "Seller").

WHEREAS, in consideration of the FDIC or Potential Purchaser furnishing Assisting Party with such information regarding the Property, Assisting Party desires to make certain agreements regarding such information and any other information the FDIC, its agents and representatives, or Potential Purchaser, furnish to Assisting Party regarding the Property (including all notes, analyses, compilations, studies or other documents, whether prepared by Assisting Party, Potential Purchaser

or others, which contain or otherwise reflect such information) (such information, and such documents, are collectively herein referred to as the "Evaluation Material"); and

WHEREAS, Assisting Party's execution of this Part B, **without modification**, is a prerequisite to receipt of such Evaluation Material; and

WHEREAS, this Part B incorporates all Instructions to this Agreement, including the definitions contained therein.

NOW, THEREFORE, in order to induce the FDIC to furnish the Evaluation Material to Assisting Party for its inspection and review, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assisting Party hereby acknowledges and agrees as follows:

Section 1. Term. This Part B shall be a continuing agreement, effective upon Assisting Party's execution ("Effective Date") for any Offering that the FDIC makes available thereafter. This Part B shall terminate only with respect to Property purchased by Potential Purchaser from Seller pursuant to an Offering, and only upon closing on the purchase of such Property. Upon repurchase of a Loan, this Part B shall become effective for all purposes as to such repurchased Loan. Assisting Party acknowledges that the Confidentiality Agreement may be revised in the FDIC's sole discretion at any time prior to Potential Purchaser's actual closing and funding on the Property under the Offering. Upon the FDIC revising the Confidentiality Agreement, Assisting Party may either (a) affirm and execute the revised Confidentiality Agreement, or (b) elect not to affirm, in which case Assisting Party will be denied further access to the FDIC's Evaluation Material. If Assisting Party elects not to affirm a revised Confidentiality Agreement, Assisting Party will not make a claim of any nature against the FDIC or any of its officers, employees, agents or attorneys for either partial or full reimbursement of its costs.

Section 2. Agreement with Potential Purchaser. Assisting Party (a) has entered into an agreement with Potential Purchaser substantially in the form of this Part B, a copy of which executed agreement will be provided upon request to the FDIC, or (b) is otherwise legally obligated under the terms of the engagement or relationship with Potential Purchaser to maintain the confidentiality of the Evaluation Material; which in either case requires at a minimum that:

- (i) Assisting Party shall use the Evaluation Material solely for the purpose of evaluating the Property offered for sale by the FDIC.
- (ii) Assisting Party shall not disseminate or divulge the Evaluation Material to any individual or entity, other than to: (a) other employees, officers and directors of Assisting Party's employer, (b) Potential Purchaser's employees, officers and directors (including those of its affiliates), (c) Potential Purchaser's agents and representatives (including its attorneys, accountants and financial advisors) and (d) any third parties (such as equity investors, servicers and contractors), in each case who (i) have a need for access to the Evaluation Material for the purpose of assisting and advising Potential Purchaser in the evaluation of the Property or in the making of a bid therefor, and (ii) have entered into an agreement with Potential Purchaser substantially in the form of this Part B, or that are otherwise legally obligated under the terms of their engagement or relationship with Potential Purchaser to maintain the confidentiality of the Evaluation Material.

Section 3. Liability. If the FDIC determines that Assisting Party has breached any provision of this Part B, the FDIC may, in its sole discretion, exercise any or all legal or equitable rights or remedies to which the FDIC is entitled against Potential Purchaser and/or Assisting Party on account of Assisting Party's breach. The FDIC shall not be deemed to have waived any of its rights or remedies on account of its failure, delay or forbearance in exercising any such right or remedy in a particular instance.

Section 4. Release of the FDIC. Assisting Party acknowledges and understands that some or all of the Evaluation Material may have been prepared by parties other than the FDIC, and further acknowledges and understands that the FDIC makes no representation or warranty whatsoever, express or implied, with respect to the content, completeness or accuracy of the Evaluation Material except as otherwise provided. Assisting Party hereby releases the FDIC from all claims, demands, causes of action, losses, damages, liabilities, cost or expenses (including attorneys' fees) asserted against or incurred by Assisting Party by reason of Assisting Party's reliance on or knowledge of the Evaluation Material or for any other reason arising in connection with the Offering.

Section 5. Public Information. Notwithstanding anything to the contrary set forth above, nothing in this Part B shall prevent Assisting Party from using or disseminating information that is or becomes generally available to the public other than as a result of a disclosure by Potential Purchaser, Assisting Party or any individual or entity to whom Potential Purchaser or Assisting Party has disclosed such information.

Section 6. Verification of Statements. By entering into and agreeing to the terms of this Part B, Assisting Party hereby acknowledges that the FDIC may perform an investigation to verify the accuracy of any statement made by Assisting Party herein.

Section 7. Governing Law. Federal law shall control this Part B. To the extent that federal law does not supply a rule of decision, this Part B shall be governed by and construed and enforced in accordance with, the laws of the State of New York. Nothing in this Part B requires any unlawful action or inaction by either party.

Section 8. Entire Agreement. This Part B represents the entire agreement between Assisting Party and the FDIC relating to the receipt, use and disclosure of the Evaluation Material and supersedes any and all prior understandings and agreements with respect thereto.

EXECUTED THIS _____ DAY OF _____, _____.

By: _____

Name: _____

Title: _____

Check one: ☐ Potential Purchaser
 ☐ Assisting Party

Potential Purchaser's Name and Address

Potential Purchaser Contact Person

Telephone Number of Potential Purchaser Contact Person

Assisting Party's Company Name and Address
(Complete if applicable and different than Potential Purchaser)

Telephone Number of Assisting Party's Company
(Complete if applicable and different than Potential Purchaser Contact Person's telephone number)